

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DURMON TROY BUTLER, III

Petitioner,

Case Number: 1:18-cv-13923

Honorable Thomas L. Ludington

v.

SHERMAN CAMPBELL,

Respondent.

_____ /

**ORDER DENYING PETITIONER'S LETTER-MOTION
FOR EQUITABLE TOLLING WITHOUT PREJUDICE**

On June 24, 2019, the Court dismissed Durmon Troy Butler's petition for a writ of habeas corpus without prejudice to allow him to raise unexhausted claims in state court. (ECF No. 11). On July 18, 2019, a letter from Butler was entered on the docket. (ECF No. 14). The letter will be construed as a motion for equitable tolling.

In his letter, Butler asks if the Court will grant equitable tolling when he returns to this Court following exhaustion of state court remedies. The Court does not have the power to issue an advisory opinion. *See United States National Bank of Oregon v. Independent Insurance Agents of America*, 508 U.S. 439, 446 (1993). If and when Butler returns to Federal court following the exhaustion of state court remedies, he may move for equitable tolling of the limitations period. As noted in the Court's dismissal order, the time during which a properly-filed collateral action is pending in state court statutorily tolls the limitations period. *See* ECF No. 11 at PageID.424. Beyond that, an opinion regarding Butler's eligibility for equitable tolling cannot be issued.

Accordingly, it is **ORDERED** that the Letter-Motion for Equitable Tolling (ECF No. 14) is **DENIED without prejudice**.

Dated: July 30, 2019

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Durmon Troy Butler III** #245025, GUS HARRISON CORRECTIONAL FACILITY, 2727 E. BEECHER STREET, ADRIAN, MI 49221 by first class U.S. mail on July 30, 2019.

s/Kelly Winslow
KELLY WINSLOW, Case Manager